

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KC ALFRED,

Plaintiff,

- against -

SLAM MEDIA INC.

Defendant.

Docket No. 1:20-cv-4106

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff KC Alfred (“Alfred” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Slam Media Inc. (“Slam Media” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of basketball player Dwyane Wade and actress Gabrielle Union cheering for LeBron James’ son Bronny and Wade’s son Zaire during their first high school basketball game, owned and registered by Alfred, a professional photographer. Accordingly, Alfred seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York and is registered with the New York Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Alfred is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 455 Diane Way, San Diego, CA 92117.

6. Upon information and belief, Slam Media is a domestic business corporation organized and existing under the laws of the State of Delaware, with a place of business at 21 West 46th Street, New York, New York 10036. Upon information and belief, Slam Media is registered with the New York State Department of Corporations to do business in New York. At all times material hereto, Slam Media has operated their Instagram page at the URL: www.Instagram.com/Slam and has operated their Facebook page at the URL: www.Facebook.com/SLAMMagazine (the “Websites”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Alfred photographed basketball player Dwyane Wade and actress Gabrielle Union cheering for LeBron James’ son Bronny and Wade’s son Zaire during their first high school basketball game (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Alfred is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-187-208.

B. Defendant's Infringing Activities

10. Slam Media ran the Photograph on the Websites. See: <https://www.instagram.com/p/B5Qu0pGF1Bs/> and <https://www.facebook.com/SLAMMagazine/photos/a.77244486384/10157898841416385/?type=3&theater>. Screenshots of the Photograph on the Websites are attached hereto as Exhibit B.

11. Slam Media did not license the Photograph from Plaintiff for its Websites, nor did Slam Media have Plaintiff's permission or consent to publish the Photograph on its Websites.

12. The Facebook post received 195 Shares and 5.6k Likes.

13. The Instagram post received 89,840 Likes.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

14. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

15. Slam Media infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Websites. Slam Media is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

16. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Upon information and belief, the foregoing acts of infringement by Slam Media have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

18. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

19. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

20. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Slam Media be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and

6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
May 28, 2020

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